IN THE HIGH COURT OF JUDICATURE FOR

RAJASTHAN AT JODHPUR

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O R D E R

Deepak Mohan Mathur
vs.
State of Rajasthan & Ors.

S.B. CIVIL WRIT PETITION NO.6230/2006 UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA.

DATE OF ORDER :: 20th November, 2006

PRESENT

HON'BLE SHRI JUSTICE MOHAMMAD RAFIQ

Mr.Vinod Purohit, Advocate for the petitioner.

BY THE COURT

The petitioner has challenged the order dated 17th August, 2006 whereby he has been transferred on promotion.

When the petitioner was working as Lecturer (Zoology) with

the Government College, Ajmer where he was last posted in March, 1997, he was by the impugned order promoted to the post of Vice Principal and was posted at Government College, Jalore. According to the petitioner, he has submitted an application to the respondents on 31st August, 2006 on the premise that he was having lungs disease for last six months and was under continuous treatment of Chest Specialist and therefore he wanted to forgo the promotion. Instead of acceding to his promotion, the respondents have sent to him a telegraphic notice on 05th September, 2006 reliving him from the College, Ajmer and requiring him to join at the place of his new posting, failing which disciplinary action shall be taken against him. According to the petitioner, when he wanted to forgo the promotion, he could not forced to join the promotional post more particularly when he was suffering from acute lungs disease and needed regular treatment from Chest Specialist who may not be available at Jalore.

Learned counsel for the petitioner in support of his argument has relied upon the judgment of this Court in Dr. (Smt.) Pushpa Mehta vs. Rajasthan Civil Services Appellate Tribunal & Ors. reported in 2000 (2) WLC (Raj.) 725.

It is settled law that an order of transfer can be interfered

with by this Court only if it is passed in violation of certain statutory rules or on allegation of proof and mala fides. Neither any of the grounds have been raised in present petition in assailing the impugned order of transfer. At the same time however inaction on the part of the respondent in not deciding the representation of the petitioner more particularly when he has expressed his preparedness to forgo the promotion cannot be appreciated. Needless to say that it is the prerogative of the Government to decide as to where it should post its employees depending on the exigencies on the administration but the employer is also expected to consider the grievances raised by the employees and redress them appropriately.

While dismissing the writ petition, I deem it appropriate to direct the respondents to dispose of the representation of the petitioner dated 31st August, 2006 within a period of 15 days from the date of copy of this judgment is served upon them.

The writ petition is dismissed with no order as to costs.

[MOHAMMAD RAFIQ],J.

A.K.Chauhan/-